

CEO opening address to the Legal and Constitutional Affairs Committee Budget Supplementary Estimate hearing – 24 October 2023

Thank you Chair and Senators for the opportunity to make an opening statement.

The Commission has recently passed its first 100 days of operation following its commencement on Saturday 1 July 2023.

A lot has occurred in those 100 days to ensure that the Commission is operating effectively, receiving corruption issue referrals, both from the public and from mandatory reporters, assessing those referrals to determine which matters to investigate, initiating investigations, as well as undertaking its corruption prevention and education functions. All of these activities are totally dependent on also having effective and functional corporate and enabling services in place to underpin this work.

For the purposes of this Committee, there are important differences between the former ACLEI and the Commission in the legislative arrangements and allocation of responsibilities. Under the LEIC Act, the Integrity Commissioner was both the agency head and the accountable authority. But for the Commission, the CEO is the Accountable Authority, and responsible for matters of governance, budget and broader management. This is consistent with the arrangements that apply for Royal Commission (where the CEO and not the Royal Commissioner appears; with those for Courts and Tribunals, where the CEO and not the head of jurisdiction appears; and for the Office of the Special Investigator, where the Director-General and not the Special Investigator appears.

The Commission has received 1368 referrals up to 15 October, including 29 mandatory referrals from heads of Commonwealth agencies. Of the 1368 referrals, 839 or 61% have been excluded as out of jurisdiction as they did not involve a Commonwealth public official or they did not raise a corruption issue. The remainder are currently at the intake, triage or assessment phase, apart from those that have advanced to investigation. Generally, assessments are being completed well within the 90-standard we have set for ourselves.

Frequent themes in referrals have been: employment or recruitment related issues, and procurement decisions. Many of those which have been excluded as not raising a corruption issue are grievances about adverse administrative decisions.

The Commission has opened 9 preliminary investigations and four new corruption investigations, one of them joint with a state agency. The Commission has also decided to refer one corruption issue to a Commonwealth agency for investigation.

In addition, the Commission is continuing 6 active investigations inherited from the former Australian Commission for Law Enforcement Integrity. 4 of these investigations have been formally transitioned to be investigated under the National Anti-Corruption Commission Act 2022.

The Commission is also currently working through the finalisation of 13 reports of ACLEI investigations that were completed before 30 June. The Commission is also supervising 30 matters that had been referred by ACLEI to 5 other Commonwealth agencies for investigation, having started on 1 July with 46 matters, 16 of which have now been completed by the agencies in question, or assessed as not requiring further supervision by the Commission.

The Commission is progressively making this information public, through weekly media alerts to ensure that the public is aware of the work activity of the Commission.

We want to be as open and helpful as possible but the legislation makes clear that ordinarily we must conduct our investigations in private. Apart from that, the Commission does not generally disclose information about the subject matter, status or progress of referrals or investigations, as to do so may prejudice operational activities, or unfairly damage reputations. All Commission staff, including me, are entrusted persons for the purposes of the NACC Act. This means that we are bound by the confidentiality provisions of the Act. As a result, I will not be in a position to answer questions on whether the Commission has received referrals about particular matters, except where this is already on the public record, nor comment on ongoing investigations. This will mean that I will generally neither confirm nor deny the existence of a referral to the Commission or of an investigation by the Commission about any particular matter.

Clearly, the Commission's capacity and capability to undertake its work has taken more than 100 days to develop. It is built on the knowledge and skills of the Commission's predecessor, ACLEI, staff who transitioned to the new Commission, as well as the work of the joint ACLEI/AGD taskforce established in August 2022, prior to the passage of the Commission legislation, to help build the Commission in advance of its commencement. I would like to put on the record the Commission's thanks for the significant body of work that was undertaken prior to its commencement by AGD and ACLEI.

It should be noted that there are two elements of that taskforce's work that have extended into 2023/24. The Commission and AGD have agreed in a Letter of Exchange to complete the work surrounding the establishment of the Commission's standalone ICT systems, to finalise our separation from the AGD network, and to assist the Commission to finalise the new facilities work program, including the new Canberra office, and new offices in both Brisbane and Perth. This is a sensible approach to assist the Commission to manage these legacy elements of the transition taskforce within this financial year.

There is still much work to be done to ensure that the Commission develops its capacity and capability to a sustainable level. As at the pay period of 27 September, there were 186.38 FTE on the payroll against an NPP/PBS FTE/ASL of 239. There are currently ongoing recruitment processes underway, and there will be 3 new advertisements for positions being issued every week between now and the end of the calendar year. Our advertisements have been attracting a very high level of interest and applications. Our ASL is 266 for 2024/25 and we are managing our recruitment activities with that in mind. We are also mindful of the unrelenting pressure on our HR and Security teams to cope with this constant recruitment activity, balanced against the need for adequate staffing levels in critical areas of the Commission. We have had 11 separations since the transition on 1 July, 6 APS employees have transferred to another APS agency and 5 APS employees have resigned.

The Commissioner and I signed off on 53 policies and standard operating procedures in the first and second weeks of the Commission to underpin its immediate work and to meet our various statutory obligations. This work continues and we are currently considering additional standard operating procedures, and policies for those areas of work that are at early stages of operations.

The Commission's inaugural Corporate Plan for 2023-2027 is published on our website.

The Commissioner and Deputy Commissioners, and Commission senior executive staff, have between them already made 26 presentations to parliamentarians, senior public servants, agency heads and staff, boardrooms, committees and associations around the country. This vital work to prevent corruption is no less important than detecting and exposing it.

As the Commissioner stated during his 100 day address on 9 October, “In our first 100 days, we have made a strong start to enhancing integrity in the Australian public sector. But we cannot do it alone. Our institutions must embrace, from the top down and at every level, a culture in which the giving of honest if unwelcome advice and reports is not dissuaded, but encouraged; in which decisions are made impartially, on the evidence and the merits, in the public interest and without regard to personal interest; and in which responsibility and accountability is accepted, including for the inevitable mistakes. In this, and in insisting on integrity, every one of you has a role to play”.

Thank you.